Morning Oregonian.

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WASHINGTON.

North American Convention of the National Board of Trade.

BILLS REPORTED BACK FAVORABLY

Officers Re-elections Providing for Investigations of the Election Returns in the South —Congressional Chit Chat.

The Inspectors of Steam Vessels

WASHINGTON Jan. 23.—Captain White of Pittsburgh appeared before the board of inspectors yesterday and presented a complaint of neglect of duty against the man in charge of Davis Island dam for failure to show signal lights on the outer piers, whereby a collision occurred between the steamer Young Eagle and a barge on the night of January 5. The president of the board present in a few days from California submitting the question whether or not the law requires the inspectors of hulls to examine the hulls of vessels with engines and boilers respectively.

Improvement of Rivers and Harbors

WASHINGTON Jan. 23.—The secretary of war has sent to the house a detailed statement showing the expenditures on account of the improvement of the several harbors from March 4, 1879 to June 30, 1883, amounting in the total $1,705,796,401. Salaries of officers of the engineer department at large received $1,491,4 8. Clerks, $10,000. Office rent, $7,200. Incidental expenses, $1,105.66. Washington territory and New York $8,850 1 4.

Howlett's Appointment Requested

WASHINGTON Jan. 23.—Newspaper correspondents here claim that the country have signed a memorial to the president requesting him to appoint Howlett of Portland, Oregon, governor of Alaska territory. Howlett was formerly a newspaper correspondent.

House

WASHINGTON Jan. 23.

Mr. Hasselbrock introduced a joint resolution tendering the thanks of congress to Captain Ericsson commanding the United States revenue cutter Hartley and officers and men of the life boat service for their conduct in rescuing survivors of the wrecked steamer Oconaboo cape July 9. Lieutenant Commander Ericsson and the officers and men of the life boat service who twice swam to the steamer and rescued the passengers and crew, and the officers and men of the revenue cutter Hartley who assisted in the rescue, and the thanks of congress be tendered to Captain Ericsson for the gallant manner in which he conducted the rescue, and that the secretary of the treasury be directed to cause a gold medal to be struck and presented to Captain Ericsson, and that he cause to be struck bronze medals and presented to the officers and men of the life boat service who participated in the rescue, and that he cause to be struck bronze medals and presented to the officers and men of the revenue cutter Hartley who participated in the rescue. Referred to the committee on commerce.

Mr. Hasselbrock, from the committee on Indian affairs reported a resolution calling on the secretary of the interior for a list of claims allowed by his department for depredations committed by Indians during the late hostilities with the United States, and also for a statement of the expenditures of the appropriation of $7,000 for the relief of Chief Joseph. In reduction of the expenses of the service. Referred to the committee on Indian affairs.

Mr. Hasselbrock, from the committee on agriculture, reported back favorably the bill to establish a department of agriculture. Referred to the committee on agriculture and ordered to be printed.

Mr. Hasselbrock, from the committee on post offices and post roads, reported back favorably the bill reducing rates of postage and to establish a uniform rate of two cents per ounce on all mail matter. Referred to the committee of the whole house on the state of the union and ordered to be printed.

Mr. Hasselbrock, from the committee on post offices and post roads, reported back favorably the bill to provide for the delivery of letters free of charge at offices not entitled to free delivery. Referred to the committee of the whole house on the state of the union and ordered to be printed.

Mr. Hasselbrock, from the committee on post offices and post roads, reported back favorably the bill to authorize the postmaster general to establish a money order system. Referred to the committee of the whole house on the state of the union and ordered to be printed.

Mr. Hasselbrock, from the committee on post offices and post roads, reported back favorably the bill to reduce the rates of postage on newspapers and periodicals. Referred to the committee of the whole house on the state of the union and ordered to be printed.

Mr. Hasselbrock, from the committee on post offices and post roads, reported back favorably the bill to establish a postal telegraph system. Referred to the committee of the whole house on the state of the union and ordered to be printed.

Mr. Hasselbrock, from the committee on post offices and post roads, reported back favorably the bill to establish a postal savings bank system. Referred to the committee of the whole house on the state of the union and ordered to be printed.

Mr. Hasselbrock, from the committee on post offices and post roads, reported back favorably the bill to establish a postal express system

H. W. S.

The Daily Oregonian.

THURSDAY MORNING, JAN. 24, 1884.

A GRAND JURY'S BLUNDER.

Portland is getting a good many "notices" these days, some of them the reverse of complimentary. And, if the ten h must be told, she deserves them. Thus the *Alta California* says: "Portland at least displays some of the characteristics of a great city. Her politics are as corrupt and her morals as wicked as would be required for the metropolis of the country. The latest evidence is a recommendation by a grand jury that the social evil be licensed. For a body which is supposed to be pre-eminently a censor of morals, this is a most extraordinary suggestion."

Hither to THE OREGONIAN has refrained from taking notice of this last manifestation of official stupidity and moral flabbiness, hoping it would pass without receiving attention from any quarter. But so extraordinary a lapse of moral judgment could not pass unnoticed. Mention of it has been made by many other journals besides the one above quoted from.

It is, indeed, an extraordinary suggestion. The object of licensing this evil is a simple one; namely, that it may be made safe to the men who support it. It is proposed to do away as far as possible with the terrible penalties that nature has pronounced against those who plant death in the sources of life; it is proposed to encourage lust by giving the assurance of the law, supported by medical authority, to those who otherwise would be deterred from lustful indulgence, that the penalties provided by nature to check a great moral and social evil need to be dreaded no longer. This is one of the refinements of sensuality that Sodom failed to reach.

Nature furnishes a check to the indulgence of every lawless appetite. As this one is the most revolting, her penalties for it are the most severe. Men can't go drunk without incurring headaches, can't eat gluttonously without dyspeptic or apoplectic consequences, can't indulge in that worse than beastly promiscuity involved in the so called social evil without running a dreadful risk of loathsome disease. These penalties nature has fixed as bars to sensuality and beastliness. To the multitude whose control over their appetites is governed very little by moral considerations prudence is thus supplied as an auxiliary force. The doom to suffer physical pain for a violated physical law makes itself heard by those to whom even Sinai would thunder in vain.

"Man, as an animal," says George Combe, "could not exist in society unless some check were instituted against abuse of his animal propensities. The pain attending an acute disease is obviously instituted to warn the sufferer, by the most forcible of all admonitions, to return to obedience to the law which he has infringed. The affliction is approved by the moral sentiments and by the intellect, because in its legitimate operation it is altogether for the advantage of the subject, and because the punishment has no object but to bring him back to obedience for his own welfare, or to terminate his sufferings when he has erred too widely to return."

That, too, the moral obliquity involved in the suggestion of our grand jury that the bagnio shall be advertised by our laws to men, and to boys, too, is a place which has a lawful right to exist and to send out its invitations to them, coupled with the assurance that no harm can come from their going, is really monstrous. Are there not already quite enough allurements to "the young man void of understanding," without an attempt to annul that old declaration that "her house is the way to hell, going down to the chambers of death"?

Again, since the thing called the social evil exists because it is created and supported by men if it is to be regulated by law let police inspection be provided, and let a policeman stationed at the door of the house which the city has designated as a proper place for men to visit, be empowered and required to cause each visitor to show his license or "permit," which he must get from the office of the auditor of the city, having paid therefor the fee required by law and entering his name upon the license book, which shall be open as other records to public inspection. Why brand the woman, and let the man go free?

It would be a very proper thing for the members of our last grand jury to address a letter to the court requesting that their suggestion be erased from the records. There never will be a time when it will not be a reproach to their morality and intelligence to have it seen standing there.

WILL THEY STAND IT.

While democratic journals of intelligence and independence acknowledge the error in electing Mr. Payne to the senate, and hardly attempt to disguise their hopeless belief that, in the words of General Grant, the democratic party can be depended upon to commit a fatal blunder at the critical moment, there are many evidences that an attempt will be made to nominate him for the presidency. The organization and methods of work are to be the same as those which triumphed at Columbus, except that they are to be strengthened by the support of Mr. Tilden and Corporation Counsel Whitney of New York, the son-in-law of Mr. Payne, "who has considerable influence with John Kelly." One of the Standard Oil Company's managers used to live in Virginia, and his friends "have guaranteed that state already," while Senator Camden of West Virginia, who is interested in the same monopoly, will bring in that state, and the instituted use of the barrel is expected to secure enough more delegations to settle the question. Upon his elevation to the presidency, Mr. John McLean is to have the senatorship thus vacated, and when John Sherman's term is ended Oliver H. Payne is to come to the senate and give the Standard Oil Company that direct representation to which it is entitled by the precedent of less powerful monopolies, which have for some time owned seats in that "august body." The only question as far overlooked in these arrangements is whether the people can be depended upon to stand it. We were once highly interested in the exhibition of a milking machine at an agricultural fair. A practical farmer stood by and saw "the wheels go round" and heard the racket like that of a subdued threshing machine, while the inventor was demonstrating its successful operation, and just as he concluded with an air of assured triumph, the farmer quietly asked: "Is the cow supposed to stand all that racket?" As the machine has never been heard of since, it may be taken for granted that the humble quadruped was afterwards consulted. Perhaps the people will not stand the operation of the proposed democratic machine.

A scheme has been gotten up in the Ohio legislature which, if it becomes a law, will virtually nullify the benefits of the Scott tax law. This is a scheme for a graded tax or license, based on the amount of liquors sold. The bill also provides for the appointment of several hundred salaried officers to enforce the law, all of whom would, of course, be democratic partisans, and "stand in" with the whisky ring. The *Ohio State Journal* says: "The effect of the Scott law has been in the first year of its operation to close up some 5000 places where liquor was sold. The cause of this was the alleged unjust nature of a tax which was laid upon all alike, regardless of the amount of liquor sold. The effect of a graded tax, and the repeal of the prohibitory power of prohibition contained in the Scott law will therefore, be not only to reopen the 5000 places which have been closed, but to encourage an unlimited number of small dealers to open saloons when and where they please, regardless of the local public sentiment, of which they will be entirely independent, and of course defiant."

Mr. C. Gilmore, foreman of Bobbe, Wall & Co., San Francisco: St. Jacobs Oil is the best remedy in the world for rheumatism.

EMBARRASSED RAILROADS.

Henry Clews, in a recent letter to the *Graphic*, throws considerable light upon the reasons why embarrassed railroads present such attractions to their managers. Because no dividends are expected by the stockholders, the managers have a better chance to enrich themselves in large salaries and other perquisites. When the Erie road was in this condition Mr. Hugh Jewett was urged to take the presidency of it, but refused until a salary of $40,000 a year was offered him, and then he insisted that five years' salary should be paid in advance and his demand was complied with. If the road had been a dividend paying road no such exorbitant salary could have been obtained. When a railroad is in distress, the same rule is usually applied to feel less responsible to the stockholders, and act upon the theory that as the stockholders do not expect anything, there need be no limit to the amount in which they should enrich themselves, and so they keep it improvished as long as possible in order to enjoy an opportunity to fatten upon its leanness. An irresponsible railroad is also a demoralizing factor in the transportation business of the country. A dividend paying road cannot afford to compete with a bankrupt one. We once heard the manager of an eastern railroad, which has been in the hands of receivers more than twenty years, say that as long as they had no dividends to pay, and were not obliged to pay even their debts, they could carry passengers cheaper than their competitors. Of course this was so. At the same time, the receivers were becoming millionaires, and in the end received nearly all the property. Such railroads, also, are more likely to exercise a corrupting influence upon public and private morality. Their weakness constitutes a ground of effective appeal for aid, or at least to be let alone, and all their "interest" comes to be a paramount one in courts and legislatures, and in municipal administrations.

"Railroad wrecking" is an opprobrious term, but when applied, as it has usually been, to the reorganization of bankrupt roads it does not deserve the odium which attaches to it. Mr. Samuel J. Tilden has been called a "railroad wrecker," because of his connection with many broken down western railroads. But he did not wreck the roads. They were overloaded with stocks and bonds, and in default before he took them in hand. He simply called the security holders together and made a statement of the amount of stock or bonds the road could carry and got them to exchange their old for new securities, and thus extricated the roads from the courts and started them anew on a paying basis. In order to show a faith in the success of his plan of reorganization he took the new securities, and by their appreciation made large sums of money. It was better for all concerned that the roads should be placed in the hands of a responsible management at the earliest possible moment. The railroad wrecker is not the man who reorganizes the insolvent company and restores it as a responsible position, but rather the man who holds the management by keeping the property in a state of insolvency, and refuses to adopt any fair arrangement for its liquidation.

NO IMMEDIATE RELIEF.

All that is needed to relieve the "hard times" in the northwest is a little ready money. As stated yesterday, there is ample real estate security, but there is no money. Applications for loans at our banks are invariably met with the reply "we are furnishing no money now except to our regular commercial patrons." And yet money is a drug in the New York market. If our bankers were inclined to make loans they could in six days have all the money here needed; and that they allow their vaults to stand empty, we believe to be an indication that they do not propose to relieve the situation. The mortgage tax law enacted by the last legislature is probably at the bottom of this policy. Capitalists cannot afford to get their property into a shape by which it can be taxed two or three times over, and although the country cries out for money and offers the possible security for its repayment, help is not forthcoming. The tax upon mortgages stands between us and relief. We do not believe that the situation will change till money flows into the country in payment for our wheat, wool and salmon during the coming summer and fall, and we must earn the money to relieve the "hard times." We must proceed upon the knowledge of the fact that "times" will not improve at once or else disaster will follow. And in the meantime let us get into a habit of living cheaper and of paying as we go.

Although Mr. Villard is down just now, he is not by any means to be regarded as a dead man in the financial world. Those who know him best have perfect faith in his power to rise again. A private letter from New York to a gentleman in this city says: "I have seen him (Villard) but once since his misfortunes culminated, and on that day he had slept five hours, it being the first sleep he had had for ten days. Of course he was much broken up; but if his health is sound you may be quite certain that we shall hear of him soon again, and this time in a field which he told me he regarded as much more important, and as offering a much larger field of profit than all the Northern Pacific roads together. He has retained the perfect respect of all good men with whom he was associated. Of course, there are some hard-hearted ones who never forgive a man for not succeeding, but there are men who realize that but for Henry Villard the Northern Pacific road would now be unfinished and in a receiver's hands, with a clamorous congress after its land grants. With its land grants lost or seriously imperilled that road would not have obtained the financial means for its completion for many years yet. Oregon at least ought to build a monument to Henry Villard."

General Butler closed his term of "making fun for the boys" by the gift of a bible to the state for the use of his successors in the governor's office, an act of humor which reminds a Washington *Post* writer of the time when Mr. Bell, on becoming governor of Texas, began his inaugural address with: "Fellow citizens." In the chaste and beautiful language of Job, "now is the winter of our discontent made glorious summer by this son of York." The result of this remarkable pronouncement is was that the governor was presently overwhelmed with gifts of bibles from every state and from foreign lands; and almost every man, woman and child in Texas got a bible and a copy of Shakespeare, and read up until Richard III. and Job became the best known and most talked about men in the state.

We could go to war for our honor if the Atlantic ocean did not intervene, we could march armies into England and Germany, appeal to the down-trodden classes who love liberty and want pork, and with their aid, force our hog-meat down the throats of the members of the effete dynasties who insult the freest country in the world by rejection of its hog products.

The fact that Roscoe Conkling has met with no encouragement in his proposal to call together the leading business men of the country at Saratoga, to start a boom for General Grant as presidential candidate, is a direct confirmation of the view expressed by THE OREGONIAN a short time ago in an article on the "Hoi of Capital."

Of course young Nat is sane, and therefore he is properly dismissed from custody. The killing of the four musicians Dukes was an act of the highest and most approved sanity. As Nait said at the time it simply "had to be done," and that's all there is to it.

Another lucidity" than that of the atmosphere of Oregon in these mid-winter days could not be desired even by Mr. Matthew Arnold.

Transcontinental has now dropped to a figure which will render it extremely easy to cook the stocks. A syndicate that could raise a few million dollars could now step in and take the properties which have been rapidly vitalized at a vast sum. It is not improbable that something like this will be done. All the signs tend to show that there will be a turn in affairs before long, and the thing to be solved is, who will appear as the new owners of the transportation lines of the northwest?

General Sherman and the Presidency.

Chicago Tribune.

General Sherman will never be nominated as the result of any movement in his behalf organized in advance. He will come to him, if at all, spontaneously, when the intelligent busy father and the "home" have subsided. He is utterly a non-political at present and does not even consider himself among the possibilities. So he says, and has probably never permitted it to enter his head the minutest of that no one gives it even serious thought.

Another Mormon and the politics of it are to be found in the case of the Rev. John D. Lee, executed on the 23d ult. for participation in the massacre of Mountain Meadows in the fall of 1857. Lee was a Mormon bishop, and was the scapegoat selected by the church authorities to bear the blame of the massacre. He was tried by a jury composed entirely of Mormons, convicted by Mormon witnesses, and executed by Mormon officers. He was a Mormon, and the Mormons are a political power in Utah. Lee was executed, but the church authorities are not. Lee was a Mormon, and the Mormons are a political power in Utah. Lee was executed, but the church authorities are not.

NEW TO-DAY.

THE SALE OF LOTS IN NEW TACOMA, ... [illegible]

FOR SALE—THE GOODWILL, FIXTURES AND STOCK OF A ... [illegible]

THE "ONE DOLLAR" WORK SHIRT IS ... [illegible]

FOR SALE—THE FURNITURE OF SEVEN ... [illegible]

TACOMA PROPERTY OWNERS WILL EX- ... [illegible]

FOR RENT—NICELY FURNISHED ROOMS, ... [illegible]

BAY WINDOW ROOM, WITH ALCOVE, ... [illegible]

WANTED—A GOOD MAN TO TAKE AN ... [illegible]

WANTED—A GOOD GIRL FOR HOUSEWORK ... [illegible]

WANTED—A GIRL FOR HOUSEWORK. ... [illegible]

WANTED—TWO MEN TO SELL A NEW ... [illegible]

WANTED—A GIRL TO DO GENERAL HOUSE- ... [illegible]

WANTED—A GIRL FOR GENERAL HOUSE- ... [illegible]

WANTED—TWO MEN TO SELL A NEW ... [illegible]

WANTED—A GIRL FOR GENERAL HOUSE-

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The Daily Oregonian.

THURSDAY MORNING, JAN. 24, 1884.

U. S. CIRCUIT COURT, DISTRICT OF OREGON.

Monday, January 21, 1884.

A. H. Spore v. Home Mutual Insurance Company. No. 836. Suit to recover upon a policy of insurance.

(1) AGENT AS AGENT, DISTINGUISHED FROM BROKER. The law will not look upon a person as an agent who is not known as such to the insurer, and therefore no agent of an insurance company is to receive and report applications for insurance when making an application therefor to the company, that person is not to be considered, as to it, acting for himself, and cannot be considered the agent of the insurer to complete.

(2) SETTING ASIDE CONTRACT. The evidence necessary to empower a court of equity to reform a contract must show affirmatively it was the mistake common and that it was mutual.

(3) CASE OF JUDGMENT. The owners of a warehouse applied to an insurance company, of which they were agents to procure and transmit to it one for insurance for a year on the same, as the property of their judgment creditor, and the company knowing nothing of their agency, issued the policy to the creditor, and upon the destruction of the property by fire, refused to pay for insurance, on the ground that the assured had no insurable interest therein, the insured having failed in an action on the policy to recover the insurance, on the ground that it did not appear but that the debt could be otherwise made out of the remaining property of the debtor: *Held*, that the insured had a right to redeem the policy, offering to pay the premium it was issued for, the same if the money for, or owing, when it should have been paid to the owner of the insurance and for his benefit, in case of loss: *Held*, that the evidence did not support the allegation of mistake; but, on the contrary, a case that the company was induced to issue the policy by the false representation of the owners and applicant, on account of which it ought to be and is entitled to rescind the contract or to treat it as null.

DEADY, J.

This suit was commenced on April 28, 1883. It is brought by the plaintiff, a citizen of Oregon, against the defendant, a corporation formed under the laws of California, and doing business in this state, to reform and enforce a policy of insurance against fire issued by the defendant on a warehouse in Cottage Grove, Oregon, for the period of one year, from May 28, 1882, in the sum of $900, by correcting an alleged mistake therein, whereby said property appears to have been insured as the property of the plaintiff, when in fact it was agreed and understood that it should be insured as the property of Aaron and Ben Lurch, whose property it was to obtain, for the benefit of the plaintiff.

The answer of the defendant denies the allegations of the bill, as to the alleged mistake, and avers that Lurch Brothers applied to it as the agents of the defendant to have the property insured as that of the plaintiff, and that it never was otherwise informed until after the loss; that it was ready and willing to pay the sums and offered to return the premium of $18.90, which was refused. The answer also contains a plea of limitation, to the effect that the suit is barred by the stipulation in the policy which provides that no suit shall be maintained thereon, unless commenced within twelve months after the loss.

On August 13 this cause was before this court on a demurrer to the bill, which it was held that the stipulation in the policy limiting the right to sue therein to the twelve months next after the loss did not commence to operate until the expiration of the sixty days thereby given to the insurer, in which to make payment: 17 Fed. Rep., 568.

But now it is contended by the defendant, that because it gave notice of its intention not to pay and the reason therefor, before the expiration of the sixty days, that the plaintiff was at liberty to commence his suit at once, and therefore this period of twelve months commenced to run from that time and expired more than a month before the commencement of this suit, namely, March 29, 1883.

This is a plausible proposition, but I do not think it is sound one. The stipulation for a delay of sixty days after notice and proof of loss within which to make payment, being founded for the benefit of the defendant, it might waive it, and by giving notice on March 28, that it would not pay the loss, for the reason stated, it evidently did so. Thereafter the plaintiff may have been at liberty to sue without further delay. But I do not think the defendant could by this means compel the plaintiff to commence sooner than he otherwise would be required, or that the limitation of twelve months would thereby commence to run, as against the plaintiff, before the previous period of sixty days had expired.

The defendant also contends now upon the proof that the suit is barred, even adopting that the twelve months did not commence to run until after the expiration of the sixty days, because it appears that the notice and proof of loss were made as early after the fire as February 16.

The evidence in the case consists of the testimony of the plaintiff, Aaron and Ben Lurch, the defendant's Oregon manager, Mr. Cyrus L. Story, and its traveling agent, H. D. Bush, and sundry exhibits, consisting of the policies of insurance on this property and letters and documents relating thereto.

From those proofs and the pleadings it satisfactorily appears that the property was destroyed by fire on February 14, 1883, and the loss adjusted by the defendant within a few days, and not exceeding a week, thereafter, at $900, and that on March 23d the defendant gave notice to the plaintiff that it declined to pay the loss because it had ascertained since the adjustment that the plaintiff had no interest in the property. Aaron and Ben Lurch both testify that they gave notice of the loss on the next day thereafter, and that within a week the agent, Bush, was at Cottage Grove and adjusted the same. Bush swears that he was there and made the adjustment on February 15; and as he speaks positively, and from written memoranda, this is probably the fact. The plaintiff does not appear to have had anything to do with the business personally, and knows nothing about it, except the offer to refund the premium in Lurch's store, when he and they declined it—he saying that he had nothing to do with it.

But taking the statement most favorable to the plaintiff on this point, and assuming that a full, week elapsed before the adjustment, which necessarily included notice and proof of loss, or waiver of the same by defendant, the period of sixty days commenced to run from and after February the 23d, and expired on April the 23d. Within the next twelve months this suit should have been commenced, whereas it was delayed until six days thereafter.

The plaintiff claims, however, that the 60 days did not commence to run until Bush returned to Cottage Grove, and month and a half later, on March 23, that the defendant would not pay the loss. But according to the testimony of the plaintiff the 60 days is to be counted from the giving of notice and proof of loss, which was either made or waived before Bush left Cottage Grove, and not the refusal of payment. Indeed, this 60 days it manifestly given to the defendant for the very purpose of ascertaining and determining whether, admitting the loss or its sufficiency of the notice and proof thereof, it is bound to or will pay the claim of the assured.

Nor is there any ground to claim that the matter was kept open from the first to the second visit of Bush to Cottage Grove, for further proof in any particular. The proof of insurable ownership was made on the first visit and it was explicit and satisfactory. The plaintiff swears that he had no interest in the property and the Lurch Brothers claimed to own it, which claim was supported by the county record of deeds.

So it is quite plain that this suit is barred by lapse of time. It was commenced just six days too late.

But if this were otherwise, the plaintiff is not entitled to the relief sought. I have examined the circumstances of the case as disclosed by the evidence, and they do not lead to the conclusion that there was any mistake made in the wording of this policy as stated, but the contrary.

Briefly, it appears that in 1878, the Lurch Brothers were doing business at Cottage Grove as commission merchants, when the firm of Bush, claiming to own the plaintiff, who is a person of comparative wealth, living in the same place, near $6,000, with interest at one per centum per month for which he obtained or had a judgment against them on December 6, 1873. Upon this the sheriff had purchased the stock, but returned them as clerks and managers of the business for a year or two, whereupon succeeded in making a settlement with their creditor, and took the store back again, all owing him, as they allege, about $2,000, which was the value of the stock when returned to them.

Aaron Lurch says that after the failure to settle the plaintiff that as he was a creditor of theirs, he would have the property insured for his benefit, without stating how or in what manner he expected to accomplish it, and the plaintiff says he assented to the suggestion, but it does not appear that he ever gave the matter any further attention, or that the Lurches were under any legal obligation to him to do so.

On July 26, 1879 Aaron Lurch had the property insured in the Atlantic Fire Insurance Company, for one year from that date, for the sum of $800 and on the policy of the plaintiff, the application therefor, which he wrote with him in person, bears date and indorsement and signed by him, on it appears.

In 1880, and before July 24, the Lurch Brothers became insolvent and left Cottage Grove to seek employment elsewhere, and on that day their agent, Bush, wrote to the manager of the defendant, a Portland, enclosing the said application policy on this property, as the property of the plaintiff, and asked to have it renewed in the Home Mutual; and that they might be allowed the proper commission therefor, which was done; and on July 24 1880, on their written application the policy was renewed with the defendant for another year.

[illegible] was all the communication there ever was, until after the fire, between the defendant and any of those parties on this subject, and all the knowledge which the defendant or its manager or agents had as to the ownership of this property, prior to its loss was derived from the application for the insurance, the information contained

From the state of facts it appears to me that the plaintiff or its agents, the Lurch Brothers, intended or thought they had an insurable interest in the property, as the property of the Lurches, and that it never was otherwise informed until after the loss; that it was done in pursuance of its agreement to procure insurance for the benefit of the plaintiff, and that the defendant, by its agent, Bush, knew the circumstances of the case, and that the Lurches were acting for the plaintiff.

What was the purpose of the plaintiff in the matter, it is not material to inquire. It may have been to protect the Lurches against the claims of creditors, or to secure them in the property, or to enable them to raise money upon it, or for some other purpose. It is enough that the Lurches were acting for the plaintiff, and that the defendant knew it.

The Lurches may have been guilty of a fraud upon the plaintiff in the disposition they made of the property, but that is not material. The question is, what was the real transaction between the plaintiff and the defendant, and what was the intention of the parties to it? Was it the intention of the plaintiff that the property should be insured in the name of the Lurches, and that in the event of a loss the defendant should look to the property as a fund out of which the Lurches should be indemnified, or was it the intention that the defendant should look to the plaintiff for the premium, and that the plaintiff should look to the property as a fund out of which to be indemnified? I think the latter was the intention of the plaintiff, and that the defendant knew it. The Lurches were insolvent and had no interest in the property. They were under any legal obligation to have the property insured for the benefit of the plaintiff, and if they were they could not have done so, for they had no money with which to pay the premium, and so far as their acts with the insurance and the plaintiff would get nothing but what he was otherwise entitled to, and they in fact got nothing else.

Before proceeding further in this case, this plaintiff brought an action at law, in the county on this policy, as it is claiming an unconditional interest in the property as a joint owner with the Lurches, and that in the event of a loss the Lurches could not in law or equity collect any part of the insurance money, and that the defendant could not resort to the Lurches to satisfy the judgment: 3 Saw., 62. The finding of the jury upon this issue, as to the time the alleged mistake was discovered, would it be could, and the only question is, that he suffered no loss by the time he brought this suit, which is clearly untrue.

But neither conflicting interests of parties, nor that the insured is not the owner of the property insured, nor that the insurer has paid the loss to the wrong person, is a defense to the claim of the insured, who has complied with the conditions of the policy, and has an insurable interest in the property: 3 Kent, 369; Angell on Ins., 71; Phillips on Ins., 71; Arnould on Ins., 71; Wood on Ins., 71; Bunyon on Life Ins., 71; Hoffman v. Ins. Co., 32 N. Y., 405; Ins. Co. v. Wilkinson, 13 Wall., 222; Ins. Co. v. Boon, 95 U. S., 117; Ins. Co. v. Mosley, 8 Wall., 397; Ins. Co. v. Norton, 96 U. S., 234; Ins. Co. v. Hamilton, 3 Dill., 415; Ins. Co. v. Hoffman, 3 Dill., 419; Ins. Co. v. Hoffman, 3 Dill., 423; Ins. Co. v. Hoffman, 3 Dill., 427; Ins. Co. v. Hoffman, 3 Dill., 431; Ins. Co. v. Hoffman, 3 Dill.,